

**BIRMINGHAM CITY COUNCIL**

**PUBLIC REPORT**

**Report to:** **CABINET MEMBER FOR HEALTH AND SOCIAL CARE JOINTLY WITH CORPORATE DIRECTOR FOR ADULT SOCIAL CARE AND HEALTH**

**Report of:** **Head of Service Enablement - Social Care and Health**

**Date of Decision:** **6<sup>th</sup> August 2018**

**SUBJECT:** **PROPOSED SETTLEMENT OF LEGAL PROCEEDINGS**

**Key Decision:** **No** **Relevant Forward Plan Ref:** **N/A**

**If not in the Forward Plan:** **Chief Executive approved** ☐  
(please "X" box) **O&S Chair approved** ☐

**Relevant Cabinet Member(s) or Relevant Executive Member:** **Cllr Paulette Hamilton - Health and Social Care**

**Relevant O&S Chair:** **Cllr Rob Pocock – Health and Social Care**

**Wards affected:** **N/A**

**1. Purpose of report:**

- 1.1. To seek approval to finalise arrangements for the proposed settlement of legal proceedings.
- 1.2. The accompanying private report contains commercially confidential information and legally privileged information in relation to the proposal. The two reports - public and private - must be read together, as this public report does not repeat information contained in the private report.

**2. Decision(s) recommended:**

That the Cabinet Member for Health and Social Care and the Corporate Director for Adults Social Care and Health:-

- 2.1 Notes the content of this report.

**Lead Contact Officer(s):** **Afsaneh Sabouri**

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### **3. Consultation**

#### **3.1 Internal**

Officers from Adult Social Care, Finance and Legal Services have been involved in the preparation of this report and have been updated during the settlement discussion and negotiations seeking to resolve the claim.

#### **3.2 External**

N/A. The proposed settlement will not have any impact on citizens or third party organisation.

### **4. Compliance Issues:**

#### **4.1 Are the recommended decisions with the Council's policies, plans and strategies?**

The City Council's Constitution allows Cabinet Members jointly with Chief Officers to make decisions in relation to revenue spend up to £0.5m and capital spend of up to £1m.

#### **4.2 Financial Implications**

The proposed settlement can be accommodated within existing budgets available to the Adult Social Care and Health directorate through Disabled Facilities Grant. Further details are set out within the Private Report.

#### **4.3 Legal Implications**

As detailed within the Private Report.

#### **4.4 Public Sector Equality Duty (see separate guidance note)**

N/A

### **5. Relevant background/chronology of key events:**

- 5.1 In legal proceedings between Birmingham City Council and a private company, it is appropriate for the Local Authority to consider proposed negotiated settlement. The proceedings relate to a challenge to the decision and process for appointment of contractors instructed to carry out Disabled Facilities Grant funding work in Birmingham. Steps have been taken to ensure that the proceedings, while they continue, have had no impact on the Council's ability or commitment to delivering Disabled Facilities Grant funded work in the city, putting citizens first. The Council has already successfully challenged a restriction which would have otherwise required it not to engage contractors until the proceedings were concluded. The Council has defended the proceedings from the outset, but is also under a duty to reflect and consider at each stage whether the best interests of the city are served by employing resources and officer time in the proceedings, or if a practical settlement at an earlier stage will deliver better value. The private company has recently offered settlement, which the Council is advised to give due consideration.

**6. Evaluation of alternative option(s):**

As set out in the private report

**7. Reasons for Decision(s):**

To seek formal approval to finalise arrangements for the proposed settlement of legal proceedings in line with BCCs' Constitutional arrangements.

**Signatures**

**Date**

Cabinet Member for Health and  
Social Care

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Corporate Director for Adult  
Social Care and Health

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**List of Background Documents used to compile this Report:**

None

**List of Appendices accompanying this Report (if any):**

1. Equality Act 2010

**Report Version**      **v5**      **Dated**      **31/07/2018**

## Equality Act 2010

The Executive must have due regard to the public sector equality duty when considering Council reports for decision.

The public sector equality duty is as follows:

- 1 The Council must, in the exercise of its functions, have due regard to the need to:
  - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 2 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
  - (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
  - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
  - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 3 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- 4 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
  - (a) tackle prejudice, and
  - (b) promote understanding.
- 5 The relevant protected characteristics are:
  - (a) marriage & civil partnership
  - (b) age
  - (c) disability
  - (d) gender reassignment
  - (e) pregnancy and maternity
  - (f) race
  - (g) religion or belief
  - (h) sex
  - (i) sexual orientation